

Appl. No. 09/919,741
Amdt. Dated: May 6, 2004
Reply to Office Action of February 6, 2004
Atty. Dkt. No.: RIIID 01-18 02

REMARKS

Reconsideration of the Office Action of February 6, 2004 respectfully is requested. Claims 33, 45, 68-80, 83-85, 87, 90-99, 102-114, 117-119 and 124-133 are pending in the present application.

On February 22, 2004, a telephone interview with Examiner Nasser took place with Shelby Grier, Attorney for Applicants, and Justin Hartings, Inventor/Applicant. During the interview, the patentability of Claims 23, 35, and 134-137 in view of U.S. Patent No. 5,320,108 to Cloutier was discussed. Specifically, the Examiner stated that it would have been obvious to automate the device disclosed in Cloutier to produce the system of the present invention. Applicants disagreed with the Examiner's assertion and stated that it would not have been obvious to one having skill in the art to automate the system of Cloutier to create the method or system of the present invention. The Interview Summary provided by the Examiner was reviewed and is accurate.

1. Discussion of Amendments

Claims 23 and 35 have been cancelled in this Amendment.

Claims 33, 45, 68-80, 83-85, 87, 90-99, 102-114, 117-119 and 124-133 were objected to as being dependent upon a rejected base claim. Accordingly, claims 68, 71, 74, 77, 90, 95, 108, 111, 114, 124 and 129 have each been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Therefore, these claim amendments are non-narrowing as they each have maintained the same scope.

Claims 24, 27, 32, 134 and 136 have been amended to depend from independent claim 74. Claims 33, 34 and 96-99 have been amended to depend from independent claim 95. Claims 36, 39, 44, 102, 105, 135 and 137 have been amended to depend from independent claim 108. Claims 45 and 130-133 have been amended to depend from independent claim 129. Claims 115-123 have been amended to depend from claim 114. The remaining pending claims in the application, namely, claims 46, 66, 67, 69, 70, 72, 73, 75-89, 91-94, 100-101, 103, 104, 106, 107, 109, 110, 112, 113 and 125-128 each depend from one of independent claims 68, 71, 74, 77, 90, 95, 108,

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111, 124 or 129. In addition, claims 24, 36, 66, 67, 100, 101, 103, 104, 106 and 107 have each been amended to clearly indicate that a second environmental factor is being maintained in the inhalant chamber in addition to the environmental factor recited in the independent claim.

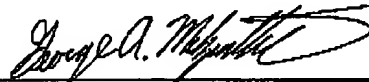
2. 35 U.S.C. §103(a) Rejection

Claims 23, 24, 27, 32, 34-36, 39, 44, 46, 66, 67, 81, 82, 86, 88, 89, 100, 101, 115, 116, 120-123 and 134-137 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Cloutier (U.S. Patent No. 5,320,108) in view of Loedding et al. (U.S. Patent No. 5,156,776) and Vincent et al. (U.S. Patent No. 5,626,130). Although the office action states that this rejection is made under 35 U.S.C. §102(b), a combination of references is cited for this rejection. In a telephone call made to the Examiner on March 11, 2004, the Examiner clarified that the current rejection is made under 35 U.S.C. §103(a) and not 35 U.S.C. §102(b). This rejection is rendered moot given the cancellation of claims 23 and 35 and the amendment of the remaining claims to depend from a claim indicated as allowable.

3. Conclusion

In view of the foregoing remarks, it courteously is urged that all the claims are allowable and that the application now is in condition for allowance. If the Examiner believes that the prosecution could be advanced through a telephone conversation, then the Examiner is invited to telephone the undersigned. Favorable action in this regard earnestly is solicited.

Respectfully submitted,
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